

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RUTH SMITH, Individually and as Widow for the)	
Use and Benefit of Herself and the Next Kin of)	
Richard Smith, Deceased,)	
)	
Plaintiff,)	Civil No. 3:05-0444
)	Judge Aleta A. Trauger
v.)	(Dist. Of MA No.
)	1:05-cv-11515PBS)
PFIZER, INC., <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' MOTION *IN LIMINE* TO EXCLUDE
EVIDENCE OF POST-INCIDENT REGULATORY ACTIONS,
LABELING, AND PATIENT INFORMATION GUIDES**

Pursuant to Federal Rules of Evidence 401, 402, 403, and 407, Defendants Pfizer Inc and Warner-Lambert Company LLC (collectively, "Defendants" or "Pfizer") respectfully move this Court for an order *in limine* to exclude at trial all evidence of and references to Food and Drug Administration ("FDA") regulatory actions related to Neurontin, including labeling, labeling changes, and patient information guides for Neurontin, that were issued after Mr. Smith's death in May 2004. This evidence has no bearing on the adequacy of Neurontin's warnings at the time it was prescribed to and allegedly taken by Mr. Smith, and is therefore irrelevant under Rules 401 and 402. Moreover, the likelihood that this evidence would unfairly prejudice Pfizer and mislead and confuse the jury substantially outweighs its probative value, if any, requiring its exclusion under Rule 403. Finally, this evidence is a subsequent remedial measure under Rule 407 and is therefore inadmissible to demonstrate liability. Accordingly, all such evidence must be excluded.

The grounds for this motion are set forth in more detail in the accompanying memorandum of law and Declaration of Mark S. Cheffo.

WHEREFORE, Defendants respectfully request that the Court exclude at trial all evidence of and references to FDA regulatory actions related to Neurontin, including labeling,

labeling changes, and patient information guides for Neurontin, that were issued after Mr. Smith's death in May 2004.

Dated: April 16, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 16th day of April 2010, I electronically filed the foregoing document with the Clerk of the Court, United States District Court for the Middle District of Tennessee, using the CM/ECF system. True and correct copies of the foregoing documents are being served via the Court's CM/ECF system on the following:

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